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ABSTRACT

This report to the United Nations Committee on the Rights of the Child contains observations of the World Organisation Against Torture (OMCT) concerning the application of the U.N. Convention on the Rights of the Child by the Federal Republic of Yugoslavia. The report's introduction points out that although OMCT welcomes Yugoslavia's efforts in keeping with the Convention, issues of concern remain, particularly the scarcity of information concerning the multiethnic nature of the Republic, and the inclusion of Serbia and Montenegro but not Kosovo and Voivodina. The report then presents observations and recommendations in the following areas: (1) non-discrimination; (2) protection against ill-treatment; and (3) children in conflict with the law. The report's conclusion includes an assertion that OMCT feels grave concern for the situation of children in Yugoslavia in general and particularly for those belonging to a minority coming under a policy of discrimination. The report concludes with a summary of observations and recommendations by the U.N. Committee on the Rights of the Child: Federal Republic of Yugoslavia (Serbia and Montenegro) in the following areas: factors and difficulties impeding the implementation of the convention, principal subjects of concern, and suggestions and recommendations. (EV)

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Rights of the Child
in the Federal Republic
of Yugoslavia



COMMITTEE ON THE RIGHTS OF THE CHILD
11th Session - Geneva, 8 - 26 January 1996



Remarks by OMCT/SOS-Torture concerning the application of
the Convention on the Rights of the Child
by the Federal Republic of Yugoslavia

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As this counter report was due to be presented at the 9th session of the Committee of the Rights of the Child (22 May - 9 June 1995), when the report of the Federal Republic of Yugoslavia was originally scheduled, the data mentioned in it must be taken in the conditional

I. General remarks

1. The Federal Republic of Yugoslavia (hereafter FRY) is a State Party to the Convention on the Rights of the Child on the basis - according to the terms of the government as stated in § 3 of the report (CRC/C/8/Add. 16) - of *"the continued legal personality of Yugoslavia and the voluntary association of the Republics of Serbia and Montenegro"*.

2. The World Organisation Against Torture (OMCT/SOS-Torture) welcomes the fact that (1) a certain number of rights stated in the Convention on the Rights of the Child are guaranteed in accordance with the spirit of the Convention and even beyond the categories contained therein (CRC/C/8 Add. 16, § 39) and (2) that the Constitution of the FRY and the constitutions of the member republics also proclaim other rights not expressly stated in the Convention (CRC/C/8/Add. 16, § 40). However, the International Secretariat particularly regrets the scarcity of information concerning the multiethnic nature of the FRY which is insufficient for throwing light on the real situation of children belonging to communities against which a policy of discrimination is applied.

3. While OMCT/SOS-Torture can but welcome the integration into the domestic legal system of the country of the Convention on the Rights of the Child which was signed by the Federal Socialist Republic of Yugoslavia on January 26th 1990 and ratified in December 1990, the International Secretariat wonders, nevertheless, what is implied by what the government of the FRY calls *"the voluntary association of the Republics of Serbia and Montenegro"*.

The *"voluntary association"* of the Republic of Serbia raises the problem of the *"association"* of the provinces of Kosovo and Voivodina. Kosovo, with 90% of its population - or over 2 million people - being Albanians enjoyed by virtue of the Constitution of 1974 a status of autonomy and a number of specific rights such as seats in Parliament, participation in various institutions, respect of its culture (schools, universities, libraries, scientific and cultural institutions). Since the abrogation of this status following the Serb occupation on 5th July 1990, the human rights situation has suffered a considerable deterioration. A similar deterioration has been observed in Voivodina

which consists of nearly 19% of Hungarians, 5.4% of Croats and 3.4% of Slovaks and has also been deprived of its status of autonomy in July 1990 as well as the Sandjak, a region both Serbian and Montenegrin, with more than 50% Muslims.

4. OMCT/SOS-Torture is also greatly concerned at the contradictions contained in the report submitted by the FRY. Moreover, this report deals only briefly with the main objectives incumbent upon the government and some of the major violations referring to the rights of the child.

II. Non-discrimination

5. In § 37 of its report the government of the FRY states that *"civil freedoms and rights, established by the Constitution of the Federal Republic of Yugoslavia and the constitutions of the member republics, are universal in nature and also apply to children"* and cites specifically the right to life, the right to education, the right to enjoy one's culture, to practice one's religion and use one's language, the right to assistance before a tribunal and other appropriate forms of assistance, the right to human dignity and to private life.

6. Having ratified the Convention on the Rights of the Child the government of the FRY has thus undertaken to respect the rights therein contained and to guarantee them, in accordance with Para. 1 of

Article 2 of the said convention, *"to any child under its jurisdiction, regardless of any consideration of race, colour, sex, language, religion, political or other opinion of the child or its parents or its legal representatives, or their national, ethnic or social origin (...)"*.

But the Human Rights Commission, at its 51st session recalled, in connection with item 12 of the agenda (E/CN.4/1995/L.99, (g) (h), p. 2), *"The serious and massive occurrence of discriminatory and repressive practices aimed at Kosovo Albanians as a whole, resulting in widespread involuntary emigration"*; and *"The attempts at changing the ethnic structure of Kosovo, through a policy of encouraging an influx of Serbs and Montenegrins, as well as through the*

harassment of ethnic Albanians from Kosovo wishing to return to their homeland".

7. For slightly over four years the Serbian authorities of the FRY persist in their policy of systematic discrimination against the whole of the Albanians of Kosovo - including children who are the most vulnerable sector of the population - in flagrant violation of the most elementary basic laws and freedoms: having adopted 32 laws and 170 programmes of a discriminatory nature aimed at what it is appropriate to call the "*Serbian colonisation*" of Kosovo. The consequences of these laws and programmes have turned out to be dramatic. According to some data 127,000 Albanians have already been dismissed and replaced by more than 35,000 Serbs and Montenegrins. In addition the "*Mother Theresa*" association has assisted, in February 1995, 26,778 families consisting on average of 6.52 members, the assisted being mainly children under 14 (35%).

8. These massive dismissals - mainly of doctors and research workers - have also resulted in the loss by every Albanian child of all social and health protection,

whereas article 60 of the Convention of the FRY (CRC/C/B/Add. 16, § 14) adopted in 1992 guarantees that children are entitled to medical care financed out of public funds.

9. This dramatic situation of the social and health sectors is also to be found in the educational system since more than 350,000 Albanian pupils and students are no longer able to attend courses in what used to be their schools, even though that same article 62 of the Constitution (CRC/C/B/Add. 16, § 14) provides that teaching is available to all on equal terms. According to information, for over four years now Albanian pupils have been denied access to 21 primary schools (three in Peja and Obiliq, two in Fushe Kosovo, Istog, Ferizaj, Lipjan, Prishtina and one at Kacanik, Dragash, Prizren, Gjilan and Podujevd) and 61 secondary schools, 7 colleges and 13 faculties of the Prishtina University have been closed, teachers and professors dismissed. Thus, a decision by the Serbian Parliament, published in the Official Journal no. 60/94 dated September 29th 1994, has legalised the decision of the Assembly (imposed by the Serbs) of the Giligove commune concerning the temporary prohibition of using

the two secondary school buildings, namely the former Marshall Tito school and the Technical Secondary School, the reason given being *"that these schools do not follow the school programme of the Serbian Republic and that the courses are given illegally."*

10. In § 298 of its report the Government of the FRY states that *"the programme is taught in the mother tongue, and in a multinational environments lessons are taught in the languages of the national minorities (...)"*.

However, various sources indicate that the policy applied by the FRY authorities - in matters of education - signifies the progressive exclusion of teaching in a language other than Serbian. In his tenth periodical report on the human rights situation in the ex-Yugoslavia, the Special Rapporteur, M. Tadeusz Mazowiecki, points out that according to certain information (E/CN. 4/1995/57, p. 21) *"the use of Bulgarian as a language of school instruction has been abolished at all levels of education, even in areas with a high concentration of ethnic Bulgarian residents"*.

11. Apart from ethnical and linguistic discrimination the FRY is also experiencing

religious discrimination, in particular against the Muslims of Sandjak although in § 86 of its report the Government of the FRY claims that *"under the Constitution of the Federal Republic of Yugoslavia incitement of racial, national and religious inequality is unconstitutional."* However, numerous reports testify to the general harassment of Muslims, including children, during arbitrary searches by police looking for arms.

12. In the face of such discrimination, which is an infringement of the most elementary basic freedoms, OMCT/SOS-Torture considers it essential that the Government of the FRY ensures full respect of the rights of ethnic, linguistic and religious minorities in accordance with the obligations incumbent upon it by virtue of the corresponding articles of the Convention on the rights of the child.

III. Protection against ill-treatment

13. By virtue of clause a) of article 37 of the Convention on the Rights of the Child, States Parties have to ensure that *"No child is subjected to torture or cruel, inhuman or degrading punishment or treatment"*. This right is guaranteed by article 25 of the Federal Constitution of the FRY and by the constitutions of the federated republics (CRC/C/8/Add. 16, § 94).

14. OMCT/SOS-Torture welcomes the fact that minors cannot be sentenced to death (CRC/C/8/Add. 16, § 96). However, information from various sources confirms the increase in violence and abuse on the part of the Serbian police and army, in particular against Albanian children from Kosovo. The children are alleged to be the victims of :

i. assassinations, tortures and various cruel, inhuman or degrading forms of treatments: from 1990 to October 1994, 18 children aged between 6 and 18 have been killed and 52 more wounded. Between 1st January and 26th February 1995 at least 27 children have suffered severe police violence. According to the same informations these

figures could be below the actual numbers since many persons are reluctant to report such cases for fear of reprisals.

- Up until 18th June 1995, Serbian soldiers barracked at the compound located in the village of Hani i Elezit had allowed local residents to enter the compound to retrieve animals which often strayed onto the property. At around 19:40 hours, a Serbian soldier killed Isa Muhamet Berisha (aged 10) from Hani i Elezit who had entered the compound to retrieve his goat. On 19th June, Serbian soldiers told Isa Muhamet Berisha's family that his body could be retrieved from the Prishtina Hospital morgue.

- On October 5th 1994 on the Vitimirice-Peje road a Serbian policeman "drew" with a knife a cross on the chest of Fidaim Mazreku (aged 13) of Guriç, (Malisheve). On 27th July 1994 Fidan Brestovei (aged 6) was killed by a policeman called Boban Krstic. Although he was found guilty he is still free and has even been promoted.

- Violence against teaching is also on the increase in Kosovo. When schools resumed in September 1994 the Serbian police intervened in three primary and four secondary schools in Prishtina, ill-treating many teachers, pupils and parents of pupils. The Serbian police also intervened in almost all Albanian primary and secondary schools in the city of Mitrovica. On September 5th 1994 in Vushtrri the police encircled for the third time the primary school "A.Z.Cajupi" breaking into the classrooms and forced the pupils and teachers out, kicking them and hitting them with their rifles. In Dean the police forbade the pupils to enter the primary school of "Lidhja e Prizrenit".

ii. arbitrary arrests: in 1994 several children were arbitrarily arrested on the pretext of searches for arms. People who, in spite of physical and psychological ill-treatment, did not confess possessing arms were "advised" to go and buy some or else leave Kosovo. If they failed to bring arms, such citizens were again arrested and tortured.

- On 17th February 1994, in Drenoc (Deçan) Serbian police searched the house of Perparim Dukaj (aged 17),

an orphan, who was subsequently arrested because he could not give them any arms. After 5 hours of ill-treatment he was released on the condition that he would bring them a revolver. In July 1994 the Serbian police arrested and beat up Hajrullah Vidiqi (aged 8) of Polac (commune of Podojeve). Bujar Kicina (aged 11) from the same village was also arrested.

- On May 11th at Istog at 15:00 hours two young Serbs armed with rifles and knives ill-treated a young Albanian, Haalit Rr. Llapaj (aged 13), from Istog i Poshtëm, who was returning from the mountains and inflicted serious injuries to him.

iii. kidnappings, taking of hostages, or "informative conversations": during the last 6 months of 1994 four Albanian children were taken hostage: Avai Hajdari (aged 16) from Broboniq (Mitrovica), Luigj Muja (aged 15) from Peje, Hafize Shabani (aged 14) from Soderina e Jerlive (Viti), Syle Shala (aged 13) from Peje. This can be explained by the fact that, frustrated at not finding arms during their searches, the Serbian police took children as hostages in the

absence of the parents, in the expectation that one of the parents would come to the police station. It may be added that in August 1994 eight children were beaten up, psychologically ill-treated or taken to police stations for "informative conversations".

15. Such exactions lead the OMCT/SOS-Torture to question :

a) the real efficacy of means for the protection of the child against ill-treatments and torture on the part of officials in authority;

b) the legal prosecution of the persons responsible and the penal, administrative and/or civil sanctions applied against them;

c) the pragmatic application of the "right to compensation for material and non-material damage inflicted through unlawful or improper action by an official in the line of duty, by a State agency or an organisation discharging public duties" (CRC/3/Add. 16, § 40). Although not covered by the Convention on the Rights of the Child this right - like other human and civil rights - was proclaimed because, as the Government of the FRY states in the same paragraph, they "improve the child's status".

16. OMCT/SOS-Torture is consequently particularly concerned by the impunity which could be enjoyed by those responsible and wonders, in the light of such violations, what guarantee is available to plaintiffs concerning the possibility of lodging a complaint and the examination, as rapidly as possible and in an objective, impartial and independent manner, of the complaint and subsequently of the demand for compensation.

No explanation having been given on the subject, OMCT/SOS-Torture considers that it would be appropriate for the government of the FRY to ensure that victims have the possibility of filing a complaint and receive compensation with complete safety. Are any measures taken to avoid that officials involved exercise pressure on the complainant, such as the suspension of such officials during the enquiry ? It is essential that the guilty persons should enjoy neither impunity nor immunity from prosecution.

17. OMCT/SOS-Torture notes that penal sanctions would be applicable against parents who ill-treat their children (CRC/C/3/Add. 16, § 165). It is therefore regrettable that the government of FRY has nowhere mentioned the existence of

such sanctions against officials enjoying authority (agents of the police; staff of residential, correction or detention centres; members of the armed forces).

18. OMCT/SOS-Torture considers it essential for the government of the FRY

to clarify the apparent contradiction between the existing legal provisions and the actual situation and put an end to every form of harassment or violence against the population likely to give rise to a process of forced displacement.

IV. Children in conflict with the law

19. In § 372 of its report the government of the FRY claims that *"The legal system of the Federal Republic of Yugoslavia regulates the criminal-legal protection of children in a satisfactory manner, irrespective of whether they appear as the perpetrators, objects or witnesses of criminal acts."* OMCT/SOS-Torture is however concerned at the insufficient amount of information relating to the administration of justice involving minors and even a certain degree of contradiction on the subject. It is important for children in conflict with the law to be taken in charge by a system of administration of justice for minors that is completely compatible with the provisions of the Convention on the Rights of the Child - particularly articles 37, 39 and 40 - as

well as the other standards relevant to the United Nations so as not to be faced by conditions liable to constitute serious attempts against their physical and psychological integrity.

20. Article 73 § 2 of the FRY penal code provides that *"a minor aged 16 but below 18 at the time of committing a penal act may be liable to correctional penalties or, exceptionally, imprisonment"*. In paragraph 374 of its report (CRC/C/8/Add. 16, French version) the government of the FRY states that *"a sentence of imprisonment is only applicable to minors between the age of 16 and 18 who have committed an act entailing a prison sentence of more than 5 years."*

OMCT/SOS-Torture has questions concerning the following points :

a) what does the notion of "*correctional measures*" entail, what is the duration and gravity of such measures;

b) what are the offences liable to correctional measures or imprisonment;

c) what happens to a minor below the age of 16 who has committed a crime entailing a term of imprisonment of 5 years ? Article 73 § 1 of the FRY penal code provides that "*a minor aged 14 but below 16 at the time of committing an offence is liable only to correctional measures.*"

21. These questions are all the more justified in view of the increase in juvenile delinquency. Indeed, the government of the FRY notes (CRC/C/8/Add. 16, § 377) that "*the age at which delinquent behaviour begins is lower and lower, and has over the past two years fallen to between 8 and 10.*" In this connection it is regrettable that the annexed tables do not mention the age-groups provided by article 73 of the FRY penal code.

22. OMCT/SOS-Torture is therefore concerned by the fate of these minors who apparently escape the penal responsibility fixed at 14 years.

The application to them of "*procedures without repressive intent*" (CRC/C/8/Add. 16, § 380, French version) raises the problem of (1) the content of such procedures, (2) the authorities competent to decide such cases and (3) the possible ways of appeal.

23. In § 94 it is stated that the constitutions of the FRY and of Serbia contain provisions limiting the detention of persons suspected of having committed a crime to a maximum period of six months from the first day of detention, renewable once by a higher judicial instance, whereas the constitution of the Republic of Montenegro limits to 60 days the detention of minors. In § 174 of its report the government of FRY states that in exceptional cases a minor may be detained for a maximum period of one month, which can be extended by two months at the most if the inquiries have not been completed during that time.

These provisions lead OMCT/SOS-Torture to make the following comments :
- the expression "*detention*" is most

imprecise, is it preventive detention or temporary detention?

- are the provisions of § 94 provided by the constitutions of the FRY and of Serbia applicable to minors? If so, the periods of detention are much too long.

- finally, the limitation, in the constitution of the Republic of Montenegro, of detention to 60 days in the case of minors raises the problem of (1) the uniformity of provisions on the subject between the federal republics and the FRY and (2) the existence of discrimination to the prejudice of minors detained on Serbian territory.

24. OMCT/SOS-Torture wishes to recall that detention is a provisional judiciary measure and should consequently be reduced to a minimum so that deprivation of liberty should be a last resort measure and not lead to the detention of children who have not yet been found guilty of a criminal offence or their detention together with minors who have already been sentenced.

25. Article 37, clause (c) of the Convention on the rights of the child provides that "(...) any child deprived of liberty shall be separated from adults,

unless it be considered preferable not to do so in the interests of the child (...)".

Articles 77 and 78 of the penal code of the FRY provide that a minor can only be condemned to imprisonment in an establishment for minors. (CRC/C/3/Add. 16, § 374). But articles 474 and 475 of the law on penal procedure provide that in exceptional cases a judge for minors may depart from this rule *"if the isolation of the minor is to last for a longer period of time, and it is possible to put him in a room with an adult who would not have a harmful influence on him."*

Even if the detention of minors with adults is provided for in the Convention on the Rights of the Child, OMCT/SOS-Torture has some doubt concerning:

a) the latitude granted to the judge in the matter, inasmuch as, being likely to entail serious risks for the minor (ill treatment, re-offending, etc.), it may turn out to be incompatible with the basic principle of the superior interest of the child;

b) the criteria used to determine that the child does not, in effect, run the risk of a "harmful influence";

c) the consequences of restructuring judicial power which have led, in Kosovo, to the destitution of the majority of Albanian magistrate and their replacement by Serbian or Montenegrin magistrates;

d) the presumed primacy of considerations and judgements of an ethnical nature.

26. As a rule the Government of the FRY gives no indication concerning the conditions prevailing in correctional establishments and detention and other similar centres.

According to information from various sources there is reason to believe that these conditions are not in conformity with the principles and general standards governing deprivation of liberty in general and that of children in particular. OMCT/SOS-Torture consequently wonders what these conditions are and whether they are subject to regular supervision. Further information would also be required concerning the provision, in such places, of educational facilities, sanitary and other installations.

27. The administration of juvenile justice requires the existence of specialised institutions and magistrates to deal specifically with children who are in conflict with the law. In § 375 of its report the government of the FRY states that *"In criminal proceedings against minors, the members of the panel are required to have special qualifications. The panel members who are not judges are equal to the judges in terms of decision-making; they too have to have special knowledge and experience in the upbringing of children."* OMCT/SOS-Torture is convinced that *"special knowledge and experience in the upbringing of children"* are essential, but they cannot replace training in the basic principles and standards contained in the Convention on the Rights of the Child. That is why the International Secretariat considers it particularly important that the authorities ensure such training to agents of the police force, prison staff and others responsible for the administration of justice to minors. This is all the more important because of the hasty restructuring of the judicial authorities, in particular in Kosovo, and the various reports concerning judgements tainted with subjectivity, partiality and based on discriminatory criteria.

28. OMCT/SOS-Torture considers it equally indispensable that the government of the FRY supply more ample information concerning the possibility available to minors to have speedy access to legal assistance as well as other forms of help and of questioning the legality of a measure of deprivation of liberty before a tribunal or other competent, independent and impartial authority. In the light of information concerning the removal from office, in autumn 1993,

of the majority of judges and representatives of the Albanian public prosecution service - the magistrates thus dismissed having been replaced by Serbian or Montenegrin magistrates - OMCT/SOS-Torture has doubts concerning the independence and impartiality of such a judicial system when dealing with children belonging to communities coming under a policy of discrimination in general, and Albanian children in particular.

V. Conclusion

29. Although the report of the FRY is in itself somewhat reassuring OMCT/SOS-Torture feels grave concern for the situation of children in general and particularly those belonging to a minority coming under a policy of discrimination. While many of the difficulties encountered by the government of the FRY in carrying out its obligations as a State-Party to the Convention on the Rights of the Child may be attributed to the political and economic situation, this situation cannot justify the systematic violations of basic rights and liberties of which children in general and the Albanian children

of Kosovo in particular are the victims.

30. The International Secretariat regrets the insufficiency of information concerning the multiethnic character of the FRY. For this reason the government's report fails to explain the complexity of a situation which, in Kosovo, has led to the dismissal of more than 80% of Albanian workers, resulting in a dramatic worsening of the economic and social situation of Albanian families, which are unable to supply the needs of their children who are deprived of any kind of benefit and social sanitary and educational assistance...

31. OMCT/SOS-Torture wishes to stress that denying Albanian pupils access to 21 primary schools, and the closure of 61 secondary schools, 7 colleges and 13 faculties at the university of Prishtina are acts contrary to fundamental rights, which are the right to education and spiritual and mental development. Forbidding of teaching in Bulgarian calls for the same condemnation.

32. With respect to the administration of justice for minors, the International Secretariat notes with concern the increase in juvenile delinquency and questions the measures and provisions effectively adopted by the judiciary system of the FRY with regard to minors who apparently do not come under the penal responsibility established at 14 years. More generally OMCT/SOS-Torture would recall the basic importance of appropriate measures aimed at physical and psychological readaptation, rehabilitation and the social reintegration of minors who are in conflict with the law.

33. In the light of table 3 concerning "*Minors condemned for offences (1990-1993)*" OMCT/SOS-Torture has doubts concerning the value of the numerical

data. In § 381 of its report the government of the FRY mentions the existence of 16 correctional establishments in which 971 minors are being held. But if we add the number of children condemned for minor offences, which is probably the reason they are being held, we arrive at 2,475 minors in 1992 and 3,228 in 1993. How does the government of the FRY explain such a difference ?

34. OMCT/SOS-Torture notes that the term "*detention*" used in the report does not make it possible to determine whether it refers to preventive or temporary detention. Moreover, if the provisions of the constitutions of the FRY and of Serbia apply to minors, it goes without saying that they are contrary to the spirit and letter of the convention as far as the exceptional nature of detention is concerned. Finally, the limitation in the constitution of the Republic of Montenegro of the detention of minors to 60 days raises the question of (1) the uniformity of provisions on the subject between the federal republics and the FRY and (2) the existence of discrimination to the prejudice of minors detained on Serbian territory.

35. OMCT/SOS-Torture also notes that the legislation in force does not visibly encourage the use of judicial means of appeal in cases of illegal or arbitrary detention and even less in the case of ill-treatment or torture which minors may have endured during detention in police centres or in correctional, detention or other establishments. The authorities should ensure that the legislation is brought in conformity with the aims of the convention, including through a clear definition of the competence of the judicial or administrative authorities capable of taking decisions in such matters.

36. In order to put an end to the violence of which children are victims the International Secretariat recommends

that allegations of violence and ill-treatment against minors be the subject of a speedy inquiry within the framework of an appropriate system and that those guilty should not have the benefit of either impunity or immunity from prosecution.

37. Finally OMCT/SOS-Torture wishes to stress its concern over the attitude of the government of the FRY which has attempted to justify its failure to comply with the Convention on the rights of the child and other international standards by implying that it is due to the sanctions of the Security Council and the blockade imposed against the FRY by the European Union. □

Concluding observations by the UN Committee
on the Rights of the Child:
Federal Republic of Yugoslavia
(Serbia and Montenegro)

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80. The Committee considered the initial report of the Federal Republic of Yugoslavia (Serbia and Montenegro) (CRC/C/8/Add.16) at its 269th meeting (CRC/C/SR.269), held on 15 January 1996. As the Committee was unable to benefit from the presence of the representatives of the State party, the examination of the State party's report in the Committee proceeded on the basis of written information submitted by the Government as well as other documents received, including the reports of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia. Subsequent to the consideration of this information and taking into account the recent positive developments in the former Yugoslavia, the Committee decided to request the State party to submit a progress report to it before the end of 1997. In view of the considerable importance the Committee attaches to a dialogue with the State party's representatives, the Committee expresses the hope that on the occasion of the examination of the requested progress report, the Committee will be able to benefit from the presence of and exchange of views with the representatives. The

Committee further decided to adopt* the following concluding observations:

A. Factors and difficulties impeding the implementation of the Convention

81. The Committee recognizes that serious difficulties have been faced by the Federal Republic of Yugoslavia since it became a party to the Convention. Mention may be made, in this regard, of the State party's transition to a market-oriented economy and the attendant problems experienced by the population during this period. The break-up of the former Yugoslavia produced other serious consequences, including of an economic nature.

82. Although the State party has not been the theatre of war, the consequences of hostilities in the neighbouring territories has had a severe impact on the population.

83. The large influx of refugees has placed a further strain on resources in the Federal Republic of Yugoslavia, especially as the State party appears to have received less international support

in sharing the refugee burden than other countries in the region.

84. Such consequences of the war on the territory of the former Yugoslavia, combined with the realities of sanctions seem to have led to a worsening of the indicators of the health and education situation of the children of the Federal Republic, including lower immunization coverage, more nutrition-related disorders and illnesses, and an increase in the number of children suffering from mild and serious mental disorders. The sanctions against the Federal Republic may have led to the isolation of professionals dealing with the rights of the child.

B. Principal subjects of concern

85. The Committee remains uncertain as to the extent to which a system for the independent monitoring of the rights of the child, such as an ombudsperson for children or a similar national institution, exists and operates in the State party.

86. The Committee raises various points of concern with reference to the implementation of article 2 of the Convention

relating to non-discrimination. It expresses grave concern about the situation of Albanian-speaking children in Kosovo, especially with regard to their health and education, as well as the degree to which this population is protected from abuse by the police. From the information reported to the Committee, it appears that the rejection by the population of the Government's decision to apply a uniform education system and curriculum has been followed by the summary dismissal of 13,000 teachers and other education professionals and to more than 300,000 school-age children not attending school. The subsequent development of a parallel system of education and the tensions surrounding this development in Kosovo have resulted in further detrimental effects, including the closure of schools and the harassment of teachers.

87. The Committee also draws attention to the serious problems threatening the health-care system which have involved large-scale dismissals of health personnel, thereby adversely affecting the health and social protection of Albanian-speaking children in Kosovo.

88. Additionally, the Committee expresses its concern at the information it has received concerning the abuse of children and teachers by the police as well as at the prevailing opinion of the victims of such abuse that the police are able to act with impunity.

89. The Committee also wishes to express its concern over reports of the treatment of persons, including children belonging to a religious minority (Muslims), in Sandjak where incidents of harassment, police abuse, violent house searches and commission of human rights violations with impunity are alleged to have occurred. There have also been reports about serious incidents of discrimination against the Roma (Gypsy) population.

90. The Committee is concerned at the information brought to its attention concerning the hostile sentiments apparently broadcast by certain mass media. The Committee is worried about tendencies in the media which may lead to the incitement of hatred against certain ethnic and religious groups.

91. The Committee is deeply concerned about the absence of pluralism in the ac-

tivities of the major organs of the mass media, limiting the freedom of the child to receive information and the freedom of thought and conscience, as provided for in articles 13 and 14 of the Convention.

92. The Committee remains uncertain as to the extent to which the State party has undertaken measures to ensure that the traditional view of children as mere objects of care has been replaced by an understanding and recognition of the child as a subject of rights. In this regard, clarification is requested as to the applicability of the provisions of the Constitution guaranteeing respect for the civil rights and freedoms of children, including the right to privacy provided for in article 16 of the Convention.

93. The Committee is concerned that the problem of statelessness has not been resolved, in particular with regard to refugee children and children born outside the territory of the Federal Republic of Yugoslavia and subject to its jurisdiction.

94. The Committee wishes to express its concern about the seeming overemphasis on the resort to and use of institutional

care for children in need of assistance. The Committee is of the opinion that this form of alternative care may not necessarily be the most effective, as it is reported that the assistance provided may not be of consistent quality and that insufficient attention is given to preparing children for their eventual return to their family or their integration into the community.

95. The Committee is concerned that there appears to be an increase in violent and aggressive behaviour among children and adolescents in the State party. In this context, the problem of the abuse of children is also a concern of the Committee.

96. The Committee wishes to express concern at information brought to its attention which indicates that disparities exist between regions and between rural and urban areas with regard to the provision of health care to children. The Committee also notes with concern that according to other information brought to its attention there has been a discernible increase in the number of children, including refugee children, with mild and serious mental disorders. The situation of disabled children generally is an issue

of concern to the Committee. The Committee requires more concrete information on the measures taken for the early identification of disabilities and the prevention of neglect or discrimination against children with disabilities.

97. The Committee takes note that concern is expressed that the costs of children's education may be growing beyond the reach of certain families. It is also noted that a decline in preschool education has been recorded in recent years. Reports of the progressive exclusion of teaching in languages other than Serbian, such as Bulgarian, are also disquieting to the Committee.

98. The Committee wishes to draw the attention of the State party to the constraints that are reported to be hampering the reunification of unaccompanied refugee children with their families and to the Committee's concern about the extent to which the rights of these children, most of whom are living in institutions, are being guaranteed and protected.

99. The Committee is deeply concerned about administrative measures which

have allegedly made it impossible for applicants from certain regions to acquire refugee status. It is reported that once refugee status is denied the applicants, including children, no longer have a legal basis for remaining in the country and consequently become vulnerable to police harassment and to the loss of social welfare entitlements.

100. While the Committee notes that most refugees seem to be placed with host families, it expresses concern that the prevailing economic situation of these families is reported to be growing more precarious.

101. Various matters relating to juvenile justice are a cause of concern to the Committee. For example, the Committee is concerned that social welfare agencies and services might enjoy wide discretionary powers to the detriment the principle of the rights of the child as the framework for the functioning of the administration of the juvenile justice system. The apparent lack of mechanisms for the registration by children of complaints of ill-treatment and for the full and impartial investigation of those complaints is also a cause for

concern. Additionally, the Committee is concerned as to the adequacy of measures taken for the protection of the rights of the child during investigation procedures and during the period of pre-trial detention.

C. Suggestions and recommendations

102. The Committee encourages the State party to review its reservation to the Convention with a view to considering its withdrawal.

103. While acknowledging that activities have been undertaken to make the Convention known to adults and children alike, the Committee is of the opinion that further efforts seem to be required in this respect.

104. It is the opinion of the Committee that training and retraining programmes and opportunities need to be systematically developed for professionals working with or for children, in particular the police and law enforcement and army personnel, to ensure that they understand children's rights and their responsibility for actions taken which impact on the

promotion and protection of the rights of the child.

105. The Committee suggests that the State party consider the possibility of undertaking an assessment of the effectiveness of existing arrangements for coordinating the activities undertaken within and between ministries and central and local authorities for the promotion and protection of children's rights, with a view to determining whether measures are required to improve the system of coordination and cooperation for the implementation of the Convention in the country.

106. Within the framework of nurturing further international cooperation, the Committee encourages the State party to continue to give serious consideration to the question of the establishment of an office in Belgrade within the ambit of the work of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia of the Commission on Human Rights. The Committee also encourages the State party to cooperate in the work of the International Criminal Tribunal for the Former Yugoslavia.

107. The Committee strongly recommends that a solution be found to the concerns of the Committee for the situation of Albanian-speaking children in Kosovo, especially in the light of the principles and provisions of the Convention, including those of its article 3 relating to the best interests of the child. The Committee observes that the State-controlled mass media, in the interests of healing and building trust within the country, have a role and a responsibility to contribute to the efforts to foster tolerance and understanding between different groups and that the broadcasting of programmes that run counter to this objective should end. The Committee recommends that the securing and dissemination of broader and more diverse sources of information designed for children, including by broadcasting them on the mass media, would assist in ensuring further implementation of the principles and provisions of the Convention, including those of its article 17. It is also suggested that measures should be taken to improve the activities of the mass media in imparting information for children in their own language, including Albanian.

108. On the basis of information presented to it, the Committee suggests that the State party give further consideration to the need to allocate greater resources to education and to reverse any trends in the education system which may perpetuate gender discrimination or stereotyping as well as to addressing other problems, including those relating to teaching in national languages.

109. Note is taken of the provisions of article 2 of the Primary School Act by which certain of the aims of education laid down in article 29 of the Convention have been incorporated into school curricula.

It is the view of the Committee that the principle contained in article 29 (1) (d) which stipulates that "*the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin*" is an important dimension that should be integrated into curricula at all levels of schooling. School curricula materials should be developed, if they do not already exist, which aim at educating

children in the spirit of tolerance of and regard for different civilizations.

110. The Committee takes note that the principle of respect for the views of the child has been reflected in such situations as the change of name or adoption of the child. While it is also acknowledged that the expression of children's views in schools exists through the activities of students and class groups, the Committee is of the opinion that the undertaking of further pro-active measures to encourage children to participate in family, community and social life, in general, merits greater attention.

111. Legislative and other measures should be undertaken to ensure that children are protected from statelessness and that for each child under the jurisdiction of the State, the rights set forth in the Convention are respected and ensured.

112. The Committee is of the opinion that there appears to be a need for more pre-marriage counselling and family-life education programmes, including as a means to prevent family breakdown.

113. As regards the efforts required to reduce the recourse to institutional care for children in difficult situations, the Committee recommends that greater attention be paid to the development and use of alternative forms of care such as foster care and adoption.

114. With reference to the implementation of article 19 of the Convention and the efforts required to prevent and combat the abuse of children, the Committee recommends that consideration be given to the elaboration of a comprehensive and integrated public information campaign, to the undertaking of a review of the national legislative measures in this field and their compliance with the Convention's provisions, as well as to the further development of training programmes for professionals involved in this field of work.

115. With a view to contributing to the most effective use of scarce resources, the Committee recommends that the State party accord greater attention and consideration to the development of a strong primary health-care system. Such a system would have the benefits of according due attention to developing a culture of

nutrition, hygiene and sanitation education, transmitting health skills to parents, and enhancing participatory approaches to the distribution and use of resources throughout the health-care system.

116. In connection with the implementation of article 39 of the Convention, the Committee suggests that the State party consider as a matter of priority the further development of rehabilitative programmes. In this regard, the problem of the apparent scarcity and inadequacy of programmes for the treatment of post-traumatic stress disorders, identified primarily in refugee children, needs to be adequately addressed.

117. In the case of alleged violations of human rights committed by groups of individuals, the Committee emphasizes the responsibility of the authorities to undertake measures to protect children from such acts. It is also the opinion of the Committee that those accused of abuses should be tried and, if found guilty, punished. In addition, the outcome of investigations and cases of convictions should be widely publicized in order to combat any perception of impunity.

118. With regard to the implementation of the provisions of the Convention concerning preventing and combating various forms of exploitation, the Committee wishes to receive further information with respect to the functioning of the labour inspectorate system and the implementation of sanctions for non-compliance with the requirements of the labour legislation.

119. Concerning the application of the provisions of article 33 of the Convention, the Committee suggests that consideration be given, if necessary, to the further development of systems for the collection of reliable data on the problem of drug abuse and to the incorporation of a uniform drug prevention programme within the education system.

120. Further information and research findings on the causes of sexual exploitation and abuse would be welcomed by the Committee. The Committee also suggests that the State party consider the possibility of reviewing its legislation in relation to the age of sexual consent in the light of the concerns raised on this matter by the Committee. It is also the view of the Committee that serious consideration

should be given to the possibility of allocating further resources for programmes for the prevention of sexual abuse and exploitation and the rehabilitation of victims, including training of and support to the professionals dealing with these issues and the development of an integrated and coordinated approach to assist both the victims and the perpetrators of such abuse. In connection with this point, the Committee wishes to encourage the State party to consider greater use of the media in relation to awareness-raising and education on the dangers of sexual exploitation and abuse and the issues of HIV/AIDS and other sexually transmitted diseases.

121. In the light of the commitment expressed by the State party, in its written information to the Committee, to publish and widely disseminate its report as well as the summary records and the Committee's concluding observations, the Committee encourages the State party to take the necessary steps. Additionally, the Committee supports the intention of the State party to present the aforementioned publication in the Federal Assembly and to hold a discussion of its contents. The Committee is also

encouraged by the media's pledge to give full coverage to the discussion of the State party's report by the Committee.

122. The Committee further proposes that a progress report on the implemen-

tation of the Convention, taking into account the concerns raised and observations made during the Committee's discussion, be submitted to the Committee before the end of 1997. ▢

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